

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON**

**PRESERVE PARTNERS, INC,**

Plaintiff,

v.

**HEIRLOOM, INC., RYAN DONATO, and  
JEREMY KILLIAN,**

Defendants.

Case No. 3:23-cv-809-SB

**ORDER**

**Michael H. Simon, District Judge.**

United States Magistrate Judge Stacie Beckerman issued Findings and Recommendation in this case on November 15, 2023. Judge Beckerman recommended that this Court deny Defendants’ Second Motion to Dismiss Plaintiff’s First and Second Claims for Relief (ECF 16). No party has filed objections.

Under the Federal Magistrates Act (Act), the court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate.” 28 U.S.C. § 636(b)(1). If a party objects to a magistrate judge’s findings and recommendations, “the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” *Id.*; Fed. R. Civ. P. 72(b)(3).

If no party objects, the Act does not prescribe any standard of review. *See Thomas v. Arn*, 474 U.S. 140, 152 (1985) (“There is no indication that Congress, in enacting [the Act], intended to require a district judge to review a magistrate’s report to which no objections are filed.”); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc) (holding that the court must review *de novo* magistrate judge’s findings and recommendations if objection is made, “but not otherwise”).

Although review is not required in the absence of objections, the Act “does not preclude further review by the district judge[] *sua sponte* . . . under a *de novo* or any other standard.” *Thomas*, 474 U.S. at 154. Indeed, the Advisory Committee Notes to Rule 72(b) of the Federal Rules of Civil Procedure recommend that “[w]hen no timely objection is filed,” the court review the magistrate judge’s findings and recommendations for “clear error on the face of the record.”

No party having made objections, this Court follows the recommendation of the Advisory Committee and reviews Judge Beckerman’s Findings and Recommendation for clear error on the face of the record. No such error is apparent. Accordingly, the Court ADOPTS Judge Beckerman’s Findings and Recommendation (ECF 25). The Court DENIES Defendants’ Second Motion to Dismiss Plaintiff’s First and Second Claims for Relief (ECF 16).

**IT IS SO ORDERED.**

DATED this 23rd day of January, 2024.

/s/ Michael H. Simon  
Michael H. Simon  
United States District Judge